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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,029	12/03/2003	David A. Deemer	8330-000261	4459

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HARNESSE, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

WEAVER, SUE A

ART UNIT PAPER NUMBER

3727

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/727,029

Applicant(s)

DEEMER ET AL.

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,7-11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leigner.

Leigner teaches a molded plastic container with a pair of opposed flex panels and a pair of opposed columns at 12, 14. Note the columns are radially convex while the flex panels are concave as shown in Figure 7. The process of blow molding is well known for plastic containers particularly for those which have flex panels and to have molded the container of Leigner by blow molding would have been most obvious to one having ordinary skill in the art.

2. Claims 17-20 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 and 10 above, and further in view of Krishnakumar et al.

To have optionally formed the flex panel as a floating island in the well-known manner of stepped vacuum panels would have been obvious in view of such teaching by Krishnakumar et al

3. Claims 2, 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 17 above, and further in view of Ota et al.

To have also provided a waist portion and a groove to strengthen the container would have been obvious in view of Ota et al.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of Yourist.

To have provided a label surface in the shoulder would have been obvious in view of such teaching by Yourist at 134.

5. Claims 5, 6, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Singier.

To have provided the floating island with an elliptical shape would have been obvious in view of Singier teaching such shape.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 10 above, and further in view of Scheffer et al.

To have provided a pair of reinforcing rings at the bottom would have been obvious in view of such teaching by Scheffer et al.

7. Claims 15, 16, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 10 and 17 above, and further in view of Sasaki et al.

To have optionally made the container with upper portions having circular portions in the manner of Sasaki et al would have been obvious. Note that such provide maximum diameter portions.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dolan et al and Beck et al show containers with grips. Lichtman

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et al and Knight et al show containers with oval portions. Morizumi, Krishnakumar et al '184 and Lane et al show other containers with flex panels.

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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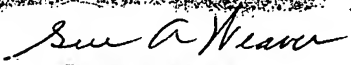
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (6-4:30).

— The fax phone number for the organization where this application or proceeding is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

  
**Sue A. Weaver**  
**Primary Examiner**